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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,916	11/03/2003	Jane A. Arason	078291/1	3894

25223 7590 06/18/2004

WHITEFORD, TAYLOR & PRESTON, LLP
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BALTIMORE, MD 21202-1626

EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/699,916

Applicant(s)

ARASON ET AL.

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-28 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brander '076. Brander '076 shows the claimed limitations of a folding cabinet bed without a separate mattress platform, the bed comprising a base (a); a top panel (f, i, m); a back wall (e) hingedly attached (by elements k) at a first end to the base and connected at a second end to the top panel; first and second spaced-apart sidewalls (g) connected to longitudinal side edges of the back wall and connected at a top end to the top panel; a front wall (e) hingedly attached (by elements k) at a first end to the base; third and fourth spaced-apart sidewalls (g) connected to longitudinal side edges of the front wall and wherein all of the sidewalls are not connected to the base; and a futon mattress (o), wherein the front and back walls are selectively movable between a closed position and an open position; and the futon is enclosed within the folding cabinet bed when the front and back walls are in the closed position. As concerns claim 2, the reference discloses the use of a plurality of feet mounted to the bottom side of the base and each of the feet extends the same predetermined distance from the bottom of the base (see Figures A & B). With regards to claims 3 and 4, the reference is also considered to show the use of a plurality of knobs and a plurality of cleats respectively mounted to the front and back walls, wherein each of the knobs and cleats

Art Unit: 3673

respectively extend a predetermined distance from the front and back walls equal to the distance the feet extend from the bottom of the base (see Figure A).

As concerns claims 6 and 7, wherein the front and back walls cooperate with the base to form a level sleeping platform which is raised off the floor when the front and back walls are in the open position (see Figure A). With regards to claims 8 and 9, the reference is considered to show means to hold the sidewalls adjacent to each other (as described in column 2, lines 26-28) and means (b) to keep the sidewalls aligned when the front and back walls are in the closed position.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiss '375 in view of Maynard '232. Kiss '375 shows the claimed limitations of a folding cabinet bed without a separate mattress *platform*, the bed comprising a base (A'); a top panel (the vertical portion of element C, D'); a back wall (the horizontal portion of element C) hingedly attached (by elements a) at a first end to the base and connected at a second end to the top panel; first and second spaced-apart sidewalls (n) connected to longitudinal side edges of the back wall and connected at a top end to the top panel; a front wall (the horizontal portion of element B) hingedly attached (by elements a) at a first end to the base; third and fourth spaced-apart

Art Unit: 3673

sidewalls (n) connected to longitudinal side edges of the front wall and wherein all of the sidewalls are not connected to the base; a plurality of feet mounted to the bottom side of the base and each of the feet extends the same predetermine distance from the bottom of the base (see Figures 1 & 3); wherein the top panel overlaps the back wall equal to the distance the feet extend from the bottom of the base (see Figure 3); wherein the front and back walls cooperate with the base to form a level sleeping platform which is raised off the floor when the front and back walls are in the open position (see Figure 3); means to hold the sidewalls adjacent to each other (b, c, y, z) and means (m) to keep the sidewalls aligned when the front and back walls are in the closed position; and wherein the front wall is decorated to mimic a piece of furniture (see Figure 4).

However, Kiss '375 lacks the use of a futon mattress which is enclosed within the folding cabinet bed when the front and back walls are in the closed position. Maynard '232 provides the basic teaching of a folding cabinet bed provided with a mattress (K) which is enclosed therein. The skilled artisan would have found it obvious at the time the invention was made to provide the folding cabinet bed of Kiss '375 with a futon mattress which is enclosed within the folding cabinet bed when the front and back walls are in the closed position in order to allow the bed to be used readily when moved to the open position as desired.

Allowable Subject Matter

5. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner respectfully asserts that none of the prior art, taken either singly or in combination, is seen to teach or suggest the use of a pair of safety side

Art Unit: 3673

panels that *fit between* the spaced apart sidewalls when the front and back walls are in the open position as recited in claims 11 and 12.

6. Claims 13-28 are allowed. The examiner respectfully asserts that none of the prior art, taken either singly or in combination, is seen to teach or suggest the specific structural configuration of the folding cabinet bed as specifically recited in independent claim 13. (Although the Gustafson '149 reference is considered to show the use of a folding cabinet bed having a slidable extension, the pair of sidewalls connected to the front wall are pivotally connected to the base, as opposed to sidewalls which are not connected to the base as claimed.)

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Katsigarakis '249, Irick '321, Gustafson '149, Goode '177, Warren '343, Van Slyke '111, Balke '894, Witmer '903, Knapp '805, Koskul '678, Kiss '795, Crosby '303, Smith '632, Burr '513, Green '013, Iverson '719, Mendum '791, Goodrich '338, Crosby '079, Crosby '881, Crosby '936, Stock '816, Kingman '792, Boulogne '358, Chiesa '716, De Pauw '992, Woolcott '249, Michau '476, Cordonnier '179, and Preston '103.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
June 11, 2004